

AMENDED IN ASSEMBLY APRIL 15, 2010

AMENDED IN ASSEMBLY APRIL 12, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 1697

Introduced by Assembly Member Hall

February 1, 2010

An act to amend Section ~~69926~~ 68085 of the Government Code, and to amend Section 1465.8 of the Penal Code, relating to courts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1697, as amended, Hall. Court security.

~~(1) The Superior Court Law Enforcement Act of 2002 authorizes the presiding judge of each superior court to contract with the sheriff or marshal for the necessary level of law enforcement services in the courts. The act requires the superior court and the sheriff or marshal to enter into a memorandum of understanding specifying the agreed upon level of court security services, and their cost and terms of payment. The act provides that the cost of services specified in the memorandum of understanding shall be based on the estimated average cost of salary and benefits for equivalent personnel classifications in that county, not including overtime pay.~~

~~This bill would provide that the cost of services specified in the memorandum of understanding shall be based on the actual county-by-county allocation for an unspecified fiscal year.~~

(1) Existing law establishes the Trial Court Trust Fund, the proceeds of which are apportioned for the purpose of funding trial court operations.

This bill would establish a Court Security Account in the Trial Court Trust Fund, and require that all court security funds from whatever source be deposited into the account and only expended for court security services.

(2) Existing law imposes a fee of \$30 upon every conviction for a criminal offense, other than parking offenses, for funding of court security until July 1, 2011, and a court security fee of \$20 thereafter. Existing law provides that proceeds of the court security fee be transferred monthly from the counties for deposit in the Trial Court Trust Fund to fund trial court operations, including those marshals and sheriffs as the court deems necessary for court operations.

~~This bill would continue the increased court security fee until July 1, 2016, and would require the Administrative Office of the Courts, commencing January 1, 2011, and on each July 1 thereafter, to adjust the court security fee, as specified. The bill would require the Administrative Office of the Courts to publish the current dollar amount of the court security fee on its Internet Web site. The bill would require proceeds of the court security fee to be deposited in a separate account of the Court Security Account in the Trial Court Trust Fund for the sole purpose of funding sheriffs and marshals for superior court security. This bill would require the Judicial Council to provide for administration of these provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature hereby finds and declares all of
- 2 the following:
- 3 (a) Section 69926 of the Government Code provides that court
- 4 security for superior courts shall be provided by the county sheriff
- 5 or marshal.
- 6 (b) Court security services are provided by sheriffs and marshals
- 7 for a number of public safety reasons, including their extensive
- 8 peace officer training, jurisdiction over the inmates in local jails,
- 9 including the transport of inmates to and from the jail to court
- 10 proceedings, and sheriff's and marshal's personnel in the courts
- 11 serving as bailiffs. Sheriffs and marshals have the longstanding
- 12 proven expertise and training to provide this much needed and
- 13 necessary function in California.

1 (c) The sheriffs and marshals of the State of California are
2 committed to continuing to provide the highest level service and
3 security in California's courtrooms.

4 (d) Instability in court security funding ~~and a cumbersome~~
5 ~~funding mechanism create burdens~~ *creates a burden* on the state,
6 on local courts, and on county sheriffs and marshals. State funding
7 continues to be impacted by salary and retirement adjustments at
8 the local level without any real state input into growth in those
9 areas. County sheriffs and marshals and local courts struggle with
10 continual lack of certainty in funding ~~and complications from the~~
11 ~~manner in which court security funding is administered and~~
12 ~~confusion in the application of existing law.~~

13 (e) ~~The provision of court security services is not broken. The~~
14 ~~cumbersome process by which court security is funded needs to~~
15 (e) *Funding needs to* be simplified to create maximum
16 efficiencies for court security services and cost containment for
17 the state.

18 (f) *Consideration shall be given to help fund court security*
19 *needs.*

20 ~~SEC. 2. Section 69926 of the Government Code is amended~~
21 ~~to read:~~

22 69926. (a) This section applies to the superior court and the
23 sheriff or marshal's department in those counties in which either
24 of the following apply:

25 (1) ~~The sheriff's department was otherwise required by law to~~
26 ~~provide court security services on and after July 1, 1998.~~

27 (2) ~~Court security was provided by the marshal's office on and~~
28 ~~after July 1, 1998, the marshal's office was subsequently abolished~~
29 ~~and succeeded by the sheriff's department, and the successor~~
30 ~~sheriff's department is required to provide court security services~~
31 ~~as successor to the marshal.~~

32 (b) ~~The superior court and the sheriff or marshal shall enter into~~
33 ~~an annual or multiyear memorandum of understanding specifying~~
34 ~~the agreed upon level of court security services, cost of services,~~
35 ~~and terms of payment. The cost of services specified in the~~
36 ~~memorandum of understanding shall be based on the actual~~
37 ~~county-by-county allocation for the _____ fiscal year.~~

38 (c) ~~The sheriff or marshal shall provide information as identified~~
39 ~~in the contract law enforcement template by April 30 of each year~~
40 ~~to the superior court in that county, specifying the nature, extent,~~

1 and basis of the costs, including negotiated or projected salary
2 increases of court law enforcement services that the sheriff
3 proposes to include in the budget of the court security program for
4 the following state budget year. Actual court security allocations
5 shall be subject to the approval of the Judicial Council and the
6 funding provided by the Legislature. It is the intent of the
7 Legislature that proposed court security expenditures submitted
8 by the Judicial Council to the Department of Finance for inclusion
9 in the Governor's Budget shall be as defined in the contract law
10 enforcement template.

11 (d) If the superior court and the sheriff or marshal are unwilling
12 or unable to enter into an agreement pursuant to this section on or
13 before August 1 of any fiscal year, the court or sheriff or marshal
14 may request the continuation of negotiations between the superior
15 court and the sheriff or marshal for a period of 45 days with
16 mediation assistance, during which time the previous law
17 enforcement services agreement shall remain in effect. Mutually
18 agreed upon mediation assistance shall be determined by the
19 Administrative Director of the Courts and the president of the
20 California State Sheriffs' Association.

21 *SEC. 2. Section 68085 of the Government Code is amended to*
22 *read:*

23 68085. (a) (1) There is hereby established the Trial Court
24 Trust Fund, the proceeds of which shall be apportioned for the
25 purposes authorized in this section, including apportionment to
26 the trial courts to fund trial court operations, as defined in Section
27 77003.

28 (2) The apportionment payments shall be made by the
29 Controller. The final payment from the Trial Court Trust Fund for
30 each fiscal year shall be made on or before August 31 of the
31 subsequent fiscal year.

32 (A) Notwithstanding any other provision of law, in order to
33 promote statewide efficiency, the Judicial Council may authorize
34 the direct payment or reimbursement or both of actual costs from
35 the Trial Court Trust Fund or the Trial Court Improvement Fund
36 to fund the costs of operating one or more trial courts upon the
37 consent of participating courts. These paid or reimbursed costs
38 may be for services provided to the court or courts by the
39 Administrative Office of the Courts or payment for services or
40 property of any kind contracted for by the court or courts or on

1 behalf of the courts by the Administrative Office of the Courts.
2 The amount of appropriations from the Trial Court Improvement
3 Fund under this subdivision may not exceed 20 percent of the
4 amount deposited in the Trial Court Improvement Fund pursuant
5 to subdivision (a) of Section 77205. The direct payment or
6 reimbursement of costs from the Trial Court Trust Fund may be
7 supported by the reduction of a participating court's allocation
8 from the Trial Court Trust Fund to the extent that the court's
9 expenditures for the program are reduced and the court is supported
10 by the expenditure. The Judicial Council shall provide the affected
11 trial courts with quarterly reports on expenditures from the Trial
12 Court Trust Fund incurred as authorized by this subdivision. The
13 Judicial Council shall establish procedures to provide for the
14 administration of this paragraph in a way that promotes the
15 effective, efficient, reliable, and accountable operation of the trial
16 courts.

17 (B) As used in subparagraph (A), the term "costs of operating
18 one or more trial courts" includes any expenses related to operation
19 of the court or performance of its functions, including, but not
20 limited to, statewide administrative and information technology
21 infrastructure supporting the courts. The term "costs of operating
22 one or more trial courts" is not restricted to items considered "court
23 operations" pursuant to Section 77003, but is subject to policies,
24 procedures, and criteria established by the Judicial Council, and
25 may not include an item that is a cost that must otherwise be paid
26 by the county or city and county in which the court is located.

27 (b) Notwithstanding any other provision of law, the fees listed
28 in subdivision (c) shall all be deposited upon collection in a special
29 account in the county treasury, and transmitted monthly to the
30 State Treasury for deposit in the Trial Court Trust Fund.

31 (c) (1) Except as specified in subdivision (d), this section applies
32 to all fees collected on or before December 31, 2005, pursuant to
33 Sections 631.3, 116.230, and 403.060 of the Code of Civil
34 Procedure and Sections 26820.4, 26823, 26826, 26826.01, 26827,
35 26827.4, 26830, 26832.1, 26833.1, 26835.1, 26836.1, 26837.1,
36 26838, 26850.1, 26851.1, 26852.1, 26853.1, 26855.4, 26862,
37 68086, 72055, 72056, 72056.01, and 72060.

38 (2) Notwithstanding any other provision of law, except as
39 specified in subdivision (d) of this section and subdivision (a) of
40 Section 68085.7, this section applies to all fees and fines collected

1 on or before December 31, 2005, pursuant to Sections 116.390,
2 116.570, 116.760, 116.860, 177.5, 491.150, 704.750, 708.160,
3 724.100, 1134, 1161.2, and 1218 of the Code of Civil Procedure,
4 Sections 26824, 26828, 26829, 26834, and 72059 of the
5 Government Code, and subdivisions (b) and (c) of Section 166
6 and Section 1214.1 of the Penal Code.

7 (3) If any of the fees provided for in this subdivision are partially
8 waived by court order, and the fee is to be divided between the
9 Trial Court Trust Fund and any other fund, the amount of the partial
10 waiver shall be deducted from the amount to be distributed to each
11 fund in the same proportion as the amount of each distribution
12 bears to the total amount of the fee.

13 (d) This section does not apply to that portion of a filing fee
14 collected pursuant to Section 26820.4, 26826, 26827, 72055, or
15 72056 that is allocated for dispute resolution pursuant to Section
16 470.3 of the Business and Professions Code, the county law library
17 pursuant to Section 6320 of the Business and Professions Code,
18 the Judges' Retirement Fund pursuant to Section 26822.3,
19 automated recordkeeping or conversion to micrographics pursuant
20 to Sections 26863 and 68090.7, and courthouse financing pursuant
21 to Section 76238. This section also does not apply to fees collected
22 pursuant to subdivisions (a) and (c) of Section 27361.

23 (e) This section applies to all payments required to be made to
24 the State Treasury by any county or city and county pursuant to
25 Section 77201, 77201.1, or 77205.

26 (f) Notwithstanding any other provision of law, no agency may
27 take action to change the amounts allocated to any of the funds
28 described in subdivision (a), (b), (c), or (d).

29 (g) The Judicial Council shall reimburse the Controller for the
30 actual administrative costs that will be incurred under this section.
31 Costs reimbursed under this section shall be determined on an
32 annual basis in consultation with the Judicial Council.

33 (h) Any amounts required to be transmitted by a county or city
34 and county to the state pursuant to this section shall be remitted
35 to the State Treasury no later than 45 days after the end of the
36 month in which the fees were collected. This remittance shall be
37 accompanied by a remittance advice identifying the collection
38 month and the appropriate account in the Trial Court Trust Fund
39 to which it is to be deposited. Any remittance that is not made by
40 the county or city and county in accordance with this section shall

1 be considered delinquent, and subject to the interest and penalties
2 specified in this section.

3 (i) Upon receipt of any delinquent payment required pursuant
4 to this section, the Controller shall do the following:

5 (1) Calculate interest on the delinquent payment by multiplying
6 the amount of the delinquent payment at a daily rate equivalent to
7 the rate of return of money deposited in the Local Agency
8 Investment Fund pursuant to Section 16429.1 from the date the
9 payment was originally due to either 30 days after the date of the
10 issuance by the Controller of the final audit report concerning the
11 failure to pay or the date of payment by the entity responsible for
12 the delinquent payment, whichever comes first.

13 (2) Calculate a penalty at a daily rate equivalent to 1 ½ percent
14 per month from the date 30 days after the date of the issuance by
15 the Controller of the final audit report concerning the failure to
16 pay.

17 (j) (1) Interest or penalty amounts calculated pursuant to
18 subdivision (i) shall be paid by the county, city and county, or
19 court to the Trial Court Trust Fund no later than 45 days after the
20 end of the month in which the interest or penalty was calculated.
21 Payment shall be made by the entity responsible for the error or
22 other action that caused the failure to pay, as determined by the
23 Controller in notice given to that party by the Controller.

24 (2) Notwithstanding Section 77009, any interest or penalty on
25 a delinquent payment that a court is required to make pursuant to
26 this section and Section 24353 shall be paid from the Trial Court
27 Operations Fund for that court.

28 (3) The Controller may permit a county, city and county, or
29 court to pay the interest or penalty amounts according to a payment
30 schedule in the event of a large interest or penalty amount that
31 causes a hardship to the paying entity.

32 (4) The party responsible for the error or other action that caused
33 the failure to pay may include, but is not limited to, the party that
34 collected the funds who is not the party responsible for remitting
35 the funds to the Trial Court Trust Fund, if the collecting party
36 failed or delayed in providing the remitting party with sufficient
37 information needed by the remitting party to distribute the funds.

38 (k) The Trial Court Trust Fund shall be invested in the Surplus
39 Money Investment Fund and all interest earned shall be allocated
40 to the Trial Court Trust Fund quarterly and shall be allocated

1 among the courts in accordance with the requirements of
2 subdivision (a). The specific allocations shall be specified by the
3 Judicial Council.

4 (l) It is the intent of the Legislature that the revenues required
5 to be deposited into the Trial Court Trust Fund be remitted as soon
6 after collection by the courts as possible.

7 (m) Except for subdivisions (a) and (k), this section does not
8 apply to fees and fines that are listed in subdivision (a) of Section
9 68085.1 that are collected on or after January 1, 2006.

10 (n) The changes made to subdivisions (i) and (j) of this section
11 by the act adding this subdivision shall apply to all delinquent
12 payments for which no final audit has been issued by the Controller
13 prior to January 1, 2008.

14 (o) *There is hereby established in the Trial Court Trust Fund*
15 *a Court Security Account. All court security funds from whatever*
16 *source, including general funds and funds from the court security*
17 *fee authorized by Section 1465.8 of the Penal Code, shall be*
18 *deposited into the Court Security Account in the Trial Court Trust*
19 *Fund. Funds in the Court Security Account may only be expended*
20 *for court security services.*

21 SEC. 3. Section 1465.8 of the Penal Code, as amended by
22 Section 29 of Chapter 22 of the 4th Extraordinary Session of the
23 Statutes of 2009, is amended to read:

24 1465.8. (a) (1) To ensure and maintain adequate funding for
25 court security, a fee of thirty dollars (\$30) shall be imposed on
26 every conviction for a criminal offense, including a traffic offense,
27 except parking offenses as defined in subdivision (i) of Section
28 1463, involving a violation of a section of the Vehicle Code or
29 any local ordinance adopted pursuant to the Vehicle Code.
30 ~~Commencing January 1, 2011, and on each July 1 thereafter, the~~
31 ~~Administrative Office of the Courts shall adjust the court security~~
32 ~~fee based on the change in the annual California Consumer Price~~
33 ~~Index for All Urban Consumers, published by the Department of~~
34 ~~Industrial Relations, Division of Labor Statistics, for the most~~
35 ~~recent fiscal year ending on June 30 preceding the adjustment,~~
36 ~~with each adjusted amount rounded to the nearest dollar. The~~
37 ~~Administrative Office of the Courts shall publish the current dollar~~
38 ~~amount of the court security fee on its Internet Web site.~~

39 (2) For the purposes of this section, “conviction” includes the
40 dismissal of a traffic violation on the condition that the defendant

1 attend a court-ordered traffic violator school, as authorized by
2 Sections 41501 and 42005 of the Vehicle Code. This security fee
3 shall be deposited in accordance with subdivision (d), and may
4 not be included with the fee calculated and distributed pursuant to
5 Section 42007 of the Vehicle Code.

6 (b) This fee shall be in addition to the state penalty assessed
7 pursuant to Section 1464 and may not be included in the base fine
8 to calculate the state penalty assessment as specified in subdivision
9 (a) of Section 1464. The penalties authorized by Chapter 12
10 (commencing with Section 76000) of Title 8 of the Government
11 Code, and the state surcharge authorized by Section 1465.7, do
12 not apply to this fee.

13 (c) If bail is deposited for an offense to which this section
14 applies, and for which a court appearance is not necessary, the
15 person making the deposit also shall deposit a sufficient amount
16 to include the fee prescribed by this section.

17 (d) Notwithstanding any other law, the fees collected pursuant
18 to subdivision (a) shall all be deposited in a special account in the
19 county treasury and transmitted therefrom monthly to the Controller
20 for deposit in ~~a separate account of the Court Security Account in~~
21 ~~the Trial Court Trust Fund for the sole purpose of funding sheriffs~~
22 ~~and marshals for superior court security.~~, *established pursuant to*
23 *subdivision (o) of Section 68085 of the Government Code.*

24 (e) *The Judicial Council shall provide for the administration*
25 *of this section.*

26 (e)

27 (f) This section shall remain in effect only until July 1, 2016,
28 and as of that date is repealed, unless a later enacted statute, that
29 is enacted before July 1, 2016, deletes or extends that date.

30 SEC. 4. Section 1465.8 of the Penal Code, as added by Section
31 30 of Chapter 22 of the 4th Extraordinary Session of the Statutes
32 of 2009, is amended to read:

33 1465.8. (a) (1) To ensure and maintain adequate funding for
34 court security, a fee of twenty dollars (\$20) shall be imposed on
35 every conviction for a criminal offense, including a traffic offense,
36 except parking offenses as defined in subdivision (i) of Section
37 1463, involving a violation of a section of the Vehicle Code or
38 any local ordinance adopted pursuant to the Vehicle Code.

39 (2) For the purposes of this section, “conviction” includes the
40 dismissal of a traffic violation on the condition that the defendant

1 attend a court-ordered traffic violator school, as authorized by
2 Sections 41501 and 42005 of the Vehicle Code. This security fee
3 shall be deposited in accordance with subdivision (d), and may
4 not be included with the fee calculated and distributed pursuant to
5 Section 42007 of the Vehicle Code.

6 (b) This fee shall be in addition to the state penalty assessed
7 pursuant to Section 1464 and may not be included in the base fine
8 to calculate the state penalty assessment as specified in subdivision
9 (a) of Section 1464. The penalties authorized by Chapter 12
10 (commencing with Section 76000) of Title 8 of the Government
11 Code, and the state surcharge authorized by Section 1465.7, do
12 not apply to this fee.

13 (c) If bail is deposited for an offense to which this section
14 applies, and for which a court appearance is not necessary, the
15 person making the deposit also shall deposit a sufficient amount
16 to include the fee prescribed by this section.

17 (d) Notwithstanding any other law, the fees collected pursuant
18 to subdivision (a) shall all be deposited in a special account in the
19 county treasury and transmitted therefrom monthly to the Controller
20 for deposit in ~~a separate account of the Court Security Account in~~
21 ~~the Trial Court Trust Fund for the sole purpose of funding sheriffs~~
22 ~~and marshals for superior court security., established pursuant to~~
23 *subdivision (o) of Section 68085 of the Government Code.*

24 (e) The Judicial Council shall provide for the administration of
25 this section.

26 (f) This section shall become operative on July 1, 2016.